



STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
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**Testimony of Michelle Cruz, Esq., State Victim Advocate
Submitted to the Judiciary Committee
Friday, March 16, 2012**

Good afternoon Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised House Bill No. 5488, An Act Concerning Risk Reduction Credits for Certain Criminal Offenses that Result in the Death of Another Person

The Office of the Victim Advocate (OVA) has been overwhelmed with complaints from crime victims since the passage of the risk reduction credit program last year. As a result of the complaints received by the OVA, the OVA has requested information from the Department of Correction regarding the process by which the risk reduction credits are being awarded. As you will see from the attached chart, many violent, undeserving offenders are being granted risk reduction credits for reasons which defy logic and stand in stark contrast to public safety.

Although the OVA fully supports Raised House Bill No. 5488, as it will exclude manslaughter convictions from the list of crimes eligible to earn risk reduction credits, the OVA strongly recommends that the Committee further amend the proposal to exclude convictions of all violent offenses and render an inmate ineligible for risk reduction credits. Further the OVA requests that the Committee review the standards and protocols currently being utilized to grant risk reductions credits and consider further amendments targeted at the manner in which these credits can be granted in the future.

The Connecticut Regional Institute for the 21st Century released the second report resulting from a series of research studies, *Framework for Connecticut's Fiscal Future*. This second report examined Connecticut's Correction, Parole and Probation Systems.¹ "The goal of these studies is to identify whether savings can be realized in both the short and long term; whether outcomes can be improved; clients better served; and efficiencies increased – to then determine where shifts in approaches to service delivery can make a real difference." The report focused on strategies that are fiscally responsive as well as public safety conscience.

In fact, a key recommendation to decrease the incarcerated population in Connecticut was to institute the use of meritorious good-time for certain offenders. The

¹ III Framework for Connecticut's Fiscal Future; Part 2: Assessment of Connecticut's Correction, Parole and Probation Systems <http://www.hartfordinfo.org/issues/wsd/PrisonerRe-entry/prisonsummaryfinal.pdf>

report states, "When used appropriately, it will reduce the prison population. This option should not be available for certain offenders and offenses, and should be linked to well-planned re-entry strategies." Let me be frank, the Risk Reduction Earned Credit Program was not well planned and is not being used appropriately.

I urge the Committee to carefully review the testimonials submitted by crime victims; crime victims, who again feel betrayed and revictimized by the risk reduction credit program. For the crime victim involved in many of the underlying crimes committed by the offender who is now obtaining risk reduction credits, they feel they have been betrayed by a criminal justice system that promised the victim or the surviving family member a definite sentence. For example: Assurances made in 1998 that Inmate #249914 would spend twenty-seven and a half years in prison for killing a mother of two; a sentence now being reduced every month by five days. Assurances made in 2009 that Inmate # 260294, a five-time drunk driver, would spend eight years in prison for killing a father of five; a sentence reduced with the application of 121 retroactive credits. Assurances made in 2009 that Inmate # 254189, a violent rapist, would spend fifteen years in prison; awarded more than 150 days without having completed one program and having collected more than one hundred disciplinary tickets.

The OVA supports the creation of a risk reduction earned credit program limited to certain non-violent offenders to ensure public safety and integrity towards crime victims. Contrary to the public propaganda regarding the risk reduction earned credit program, undeserving, violent inmates are benefiting from the program for simply placing their name on a waiting list for an educational program. Inmate # 282204, previously denied release to parole due to his lack of program participation and poor conduct; awarded risk reduction earned credits for placing his name on a waiting list for an educational program. Was this the intent of the risk reduction program?

Pursuant to C.G.S. § 51-277c, in the investigation and prosecution of crime, priority shall be given to crimes involving physical violence and to crimes involving the possession of a firearm. There was a realization that individuals who commit crimes involving physical violence and crimes involving the possession of a firearm are a danger to our communities and must be immobilized for the safety of the public. Consistent with that is the expectation that the state reserve prison beds for the most dangerous offenders. Interestingly, the very same offenses that the state has identified and prioritized for prosecution since 1997, are now being minimized by awarding the same violent offenders risk reduction earned credits.

An effective risk reduction earned credit program has the potential to motivate non-violent offenders to work, take part in rehabilitative programs and otherwise prepare to be successful in the community when released. An inmate merely signing up for a program in an effort to earn time off the end of their sentence is not motivated to change. Instead this practice will only ensure that when released early, the offender will eventually return to prison. Many states have adopted earned time policies and vary as to the awarding of such time and which crimes are eligible. For example, Illinois grants sixty days of credit for completion of GED. Rhode Island grants two days per

month for inmates that work. New Mexico grants one month of credit for completion of a vocational or rehabilitation program. Several states have yet to adopt an earned time policy. However, the general consensus for any earned time policy is that it be directly linked to the re-entry strategies and diligent participation in programs. Not simply signing one's name on a list. That being said, the retroactive application of earned credits is in complete contrast to the re-entry strategy. So much so that an offender granted 300 days worth of retroactive credits could be released without having a re-entry plan at all; we are setting up the offender to recidivate and the community for harm.

Former Commissioner of Correction, Theresa Lantz recommended the implementation of meritorious good time in a proposal submitted to Governor Malloy. Commissioner Lantz's proposal included implementation of the program targeted at non-violent, low risk inmates initially. Commissioner Lantz further recommended that the risk reduction program be implemented in stages: implement the risk reduction program, measure recidivism on the participants and determine whether to maintain, expand or eliminate the program. This was the same recommendation the consulting firm of Blum and Shaprio provided to the Connecticut Sentencing Committee in 2010. The rationale of the program was to provide an incentive based tool to motivate inmates and, if used appropriately, reduce prison population. Awarding 300 days of retroactive credits to an inmate serves only to empty prison beds at all costs, including the cost to public safety.

In an effort to reduce the Department of Correction prison population and overall budget, The Risk Reduction Earned Credit Program was passed. There was a rush to meet and reap the anticipated benefits of the program; after all, three prison facilities have been closed. In fact, the original proposal did not exempt any offenders, including those convicted of felony murder, from eligibility to earn risk reduction credits. Largely due to the public outcry, the proposal was amended to exclude from eligibility six enumerated crimes—capital murder; felony murder; murder, arson murder; aggravated sexual assault first degree; and home invasion. Unfortunately, the exclusions do not go far enough.

More than ninety-five percent of criminal cases are resolved by plea agreements. The offenders are offered guilty pleas to reduced charges in exchange for a more lenient sentence. For example, it is unlikely that an offender will be convicted of home invasion because the offender will plea to a lesser offense, such as burglary. Home invasion also carries a mandatory minimum sentence, another incentive for the offender to accept a plea. However, relieving oneself from a conviction of that offense, at the same time, makes the inmate eligible to earn risk reduction credits while in prison. So the very population of violent offenders that are meant to be ineligible to earn such credits will attain eligibility through the plea agreement process. In fact many of the offenders currently receiving the risk reduction credits had charges that had it been for the plea bargain process, they too would have been ineligible. Murder cases that were plead done to manslaughter; Sex 1 - aggravated, substituted for charges of Sex 4. This is the reality of the plea bargain process.

Finally, the Risk Reduction Earned Credit Program Proposal was embedded within the more than five hundred page budget bill. There was absolutely no opportunity for victim or public comment regarding the proposed program. Many crime victims learned of the program for the first time after receiving a letter from the Department of Correction (DOC) informing them of the risk reduction earned credit program and the possibility that the inmate they had registered to receive notification on, may be released earlier than expected due to the risk reduction earned credit program. There was no vetting process; even crime victims whose inmates would be ineligible also received letters from DOC. The unintended consequence of making sure that all crime victims, those with eligible and ineligible inmates, received notice sent panic throughout the victim community. The Department of Correction, Victim Services Unit received upwards of two hundred fifty calls in one day—calls that ultimately reached the OVA.

The unified message from crime victims is that the system they have been told to trust has betrayed them again. Many victims have been given a life sentence; there is no justice left for them. The OVA strongly recommends that the Committee consider the devastating impact that this broad-brushed approach of awarding risk reduction earned credits to inmates has had on the crime victim community and further amend Raised House Bill No. 5488 to limit the eligibility of risk reduction earned credits to non-violent, low risk offenders.

Thank you for consideration of my testimony.

Respectfully submitted,

A handwritten signature in black ink that reads "Michelle Cruz". The signature is written in a cursive, flowing style. The first name "Michelle" is written in a larger, more prominent script, and the last name "Cruz" is written in a smaller, more compact script. The signature is positioned above the printed name and title.

Michelle Cruz, Esq.
State Victim Advocate

RISK REDUCTION EARNED CREDITS

Inmate #	Controlling offense	Risk Reduction Earned Credits	Eligibility for credits
Giovanni Cucullo 382139	Manslaughter 2 nd	5 days per month	No programs completed
Keary Johnson 317299	Manslaughter 1 st / with a firearm	249 days to date	No programs completed; several disciplinary tickets
Kent Barrett 297981	Manslaughter 2 nd	326 days to date	Several disciplinary tickets; released to halfway house
Ryan Thompson 264308	Manslaughter 1 st w/ firearm	5 days per month	*
Natasha Kinion 222610	Manslaughter 1 st	5 days per month	Several disciplinary tickets
Stephen Soboleski 370567	Manslaughter 1 st	5 days per month	No programs completed
Darzell Weinstein 344907	Accessory to Manslaughter 1 st	*	Numerous disciplinary tickets
Leslie Caraballo 350012	Accessory to Manslaughter 1 st	5 days per month	*
Tiara Dixon 342944	Manslaughter 1 st	*	Several disciplinary tickets
Michael Davis 302171	Accessory to Manslaughter 1 st	5 days per month	*
Haiman Clein 244897	Accessory to Murder	5 days per month	*
Johnny Joyner 268454	Manslaughter 1 st w/ a firearm	5 days per month	*
Israel Torres 320834	Manslaughter 1 st	*	Several disciplinary tickets

Thaddeus Rout 342027	Manslaughter 1 st w/ a firearm	5 days per month	*
John McCready 276381	Manslaughter 2 nd w/ a firearm	5 days per month	*
Edison Santiago 302587	Manslaughter 2 nd w/ motor vehicle	282 days to date	*
John Harris 174901	Manslaughter 1 st w/ a firearm	5 days per month	*
Christian Ordonez 367533	Manslaughter 1 st w/ a firearm	94 days to date	*
Jason Osimanti 216857	Manslaughter 1 st	314 days to date	*
Robert Gargiardo 249914	Manslaughter 1 st	5 days per month	*
Frank Rosa 263046	Manslaughter 1 st w/ a firearm	312 days to date	*
Joseph Prancus 224859	Manslaughter 1 st	256 days to date	*
Gregory Dionisio 374809	Manslaughter 2 nd w/ motor vehicle	96 days to date	*
Michael Knybel 260294	Manslaughter 2 nd w/ motor vehicle	121 days to date	*
Jeremy Grundman 365397	Manslaughter 2 nd w/ motor vehicle	129 days to date	Denied parole due to no reasonable probability of remaining law abiding citizen
Craig Betancourt 243978	Manslaughter 1 st	5 days to date	*
Timothy Foote 373989	Manslaughter 1 st w/ a firearm	55 days to date	Several disciplinary tickets
Robert Holmes 42024	Assault 1 st w/ serious physical injury	5 days per month	*

Glen Geremia 260694	Assault 2 nd / with motor vehicle	5 days per month	*
Michael Arteaga 193280	Assault 1 st w/ serious physical injury	350 days to date	*
Jared Rennie 299000	Assault 1 st w/ extreme indifference to life	10 days to date	*
Sheldon Gunter 161383	Sexual Assault 1 st Use of force	5 days per month	Several disciplinary tickets
Onyx Acevedo 254189	Sexual Assault 1 st Use of force	160 days to date	Numerous disciplinary tickets; no programs completed
James Fordham 204388	Sexual Assault / spousal	5 days per month	*
Thomas Hamel 282204	Sexual Assault Spousal	32 days to date	Denied parole due to lack of program and poor conduct
Jeffrey Dionne 298268	Sexual Assault 1 st	5 days per month	*
Thomas Marschat 336343	Sexual Assault 2 nd	5 days per month	*
William Coleman 305106	Sexual Assault / spousal	Awarded 316 days; credits revoked	Hunger strike; refused to sign sex offender registration
Richard Shenkman 350300	Kidnap 1 st	730 days to date	*
Vincent Martone 305201	Robbery 1 st w/ a dangerous instrument	335 days to date	*
Gregory Lavoie 370432	Burglary 3rd	5 days per month	Voted to parole release

*The OVA is currently waiting for information from the Department of Correction to determine the actual number of awarded credits and/or program participation/work assignments or disciplinary tickets.